No. 88-606 (2)

Supreme Court, U.S.
FILED
NOV 29 1988
JOSEPH F. SPANIOL, JR.
CLERK

In The

Supreme Court of the United States

October Term, 1988

CITY OF BAYTOWN, TEXAS, ET AL.

Petitioners,

vs.

TONY CAMPOS, ET AL.

Respondents.

On Petition for a *Writ of Certiorari* to the United States Court of Appeals for the Fifth Circuit

RESPONDENTS' BRIEF IN OPPOSITION

WILLIAM L. GARRETT
(Counsel of Record)
GARRETT, THOMPSON & CHANG
8300 Douglas, Suite 800
Dallas, TX 75225
(214) 369-1952

ROLANDO L. RIOS
Southwest Voter Registration
Education Project
201 N. St. Mary's, Suite 521
San Antonio, TX 78205
(512) 222-2102

Attorneys for Respondents
Tony Campos, et al.

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

26 pp

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

TABLE OF AUTHORITIES iii

INTRODUCTION 1

STATEMENT OF THE CASE 2

REASONS WHY THE PETITION SHOULD BE DENIED 3

I. THE OPINION OF THE COURT OF APPEALS IS A WELL CONSIDERED AND RESPONSIBLE APPLICATION OF SETTLED LAW, AND IT SHOULD NOT BE REVIEWED ON *CERTIORARI* 3

A. THE FINDINGS OF FACT MADE BY THE DISTRICT COURT RECEIVED THE CONCURRENCE OF THE COURT OF APPEALS 3

B. THERE IS NO CONFLICT BETWEEN COURTS OF APPEAL TO BE SETTLED BY THIS COURT 4

II. BOTH COURTS BELOW FOLLOWED THE REASONING OF *THORNBURG V. GINGLES* REGARDING A COALITION OF MINORITIES 7

A. HISPANICS ALONE PROVED A VOTE DILUTION CLAIM 7

B. COMBINING BLACKS AND HISPANICS IN PROVING A VOTE DILUTION CLAIM IS CONSISTENT WITH THE PURPOSE OF SEC. 2 OF THE VOTING RIGHTS ACT AND *THORNBURG V. GINGLES* 8

TABLE OF CONTENTS–Continued

Page

C. THE LEGISLATIVE HISTORY OF THE VOTING RIGHTS ACT ALLOWS THE COMBINING OF BLACKS AND HISPANICS IN A VOTE DILUTION CLAIM 10

CONCLUSION 12

APPENDICES

A. Order of the Fifth Circuit Court of Appeals Denying a Stay of the Mandate .....App. 1

B. Order of the U. S. District Court for the Southern District of Texas Ordering Petitioners to submit their plan for preclearance ..... App. 3

C. Letter of the City of Baytown to Department of Justice submitting their plan for preclearance ..... App. 4

TABLE OF AUTHORITIES

Page

CASES:

Allen v. State Board of Elections, 393 U. S. 544, 89 S. Ct. 817, 22 L. Ed. 2d 1 (1969) 11

Campos v. City of Baytown, No. H-85-1021, *vacated* 840 F. 2d 1240 (5th Cir. 1988) 2, 7, 8, 9, 10

Campos v. City of Baytown, 840 F. 2d. 1240 (5th Cir. 1988) 1, 2, 3, 4, 6, 7, 8

Campos v. City of Baytown, 849 F. 2d. 943 (5th Cir. 1988) 1

Carrollton Branch of NAACP v. Stallings, 829 F. 2d 1547 (11th Cir. 1987) 6

Citizens for a Better Gretna v. City of Gretna, La., 834 F. 2d 496 (5th Cir. 1987) 6

Graver Mfg. Co. v. Linde Co., 336 U. S. 271, 69 S. Ct. 535, 93 L. Ed. 672 (1949) 4

Graves v. Barnes, 343 F. Supp. 704 (W.D. Tex. 1971) 11

Thornburg v. Gingles, 478 U. S. 30, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (1986) 4, 5, 6, 7, 8, 9

White v. Regester, 412 U. S. 755, 93 S. Ct. 2332, 37 L. Ed. 2d 314 (1973) 10, 11

Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973) (en banc), aff'd sub nom. *East Carroll Parish School Board v. Marshall*, 424 U. S. 636, 96 S. Ct. 1083, 47 L. Ed. 2d 296 (1976) (per curiam) 8, 9

TABLE OF AUTHORITIES–Continued

Page

STATUTES:

Voting Rights Act of 1965, 42 U. S. C. 1973 .. 3, 4, 8, 9

Rule 17, Supreme Court Rules 3

LEGISLATIVE HISTORY:

Senate Report No. 97-417, 97th Cong. 2d Sess. reprinted in 1982 U. S. Code Cong. & Admin. News, p. 177 10

No. 88-606

In The

Supreme Court of the United States

October Term, 1988

CITY OF BAYTOWN, TEXAS, ET AL.

Petitioners,

vs.

TONY CAMPOS, ET AL.

Respondents.

On Petition for a *Writ of Certiorari* to the United States Court of Appeals for the Fifth Circuit

RESPONDENTS' BRIEF IN OPPOSITION

The Respondents, Tony Campos, Conrad Garcia, Jr., Vernon Shields, and Roscoe C. Ashford, Individually and on behalf of all black and Mexican American citizens of Baytown, Texas, respectfully request this Court to deny the petition for *writ of certiorari,* seeking review of the Fifth Circuit's opinion in this case. That opinion is reported at 840 F. 2d 1240 (5th Cir. 1988) and 849 F. 2d 943 (5th Cir. 1988).

STATEMENT OF THE CASE

Respondents agree with the Statement of the Case as stated by Petitioners, except in the following respects:

Minorities, blacks and Hispanics, comprise 25.4% of the total population of 56,916, and are concentrated in the southern part of the City of Baytown, Texas. Sixty-four percent of all blacks live in six census tracts; fifty-eight percent of all Hispanics live in four census tracts. *Campos v. City of Baytown*, No. H-85-1021, slip op. at 2, Petitioner's Appendix at 2a-3a (hereinafter Pet. App.).

The challenged at-large system for electing city council members utilized the following enhancing devices: numbered post and majority vote requirement. *Campos v. City of Baytown*, 840 F. 2d 1240, 1242 (5th Cir. 1988), Pet. App. at 2e. It also utilizes staggered terms and a large election district, but in its favor, it does have a district residency requirement.

No minority has ever been elected to the city council of Baytown, although four candidates have run in eight separate races over a ten year period from 1976 to 1986. *Campos v. City of Baytown*, No. H-85-1021, slip op. at 2, 4-6, Pet. App. at 2a, 4a-6a.

Although Petitioners have applied for a *writ of certiorari*, the Fifth Circuit denied their application to stay the issuance of the mandate. Appendix, 1.

On September 1, 1988, the trial court ordered the Petitioners to submit their redistricting plan for preclearance to the Department of Justice. Appendix, 3.

On or about September 20, 1988, the City of Baytown submitted its new council districting plan [5-3-1: 5 single

member districts (one of which would be majority-minority), 3 at-large (with staggered terms and majority vote requirement), and mayor at-large], previously proposed to the trial court as a legislative remedy, to the Department of Justice for preclearance under Section 5 of the Voting Rights Act of 1965, 42 U. S. C. 1973. Appendix, 4.

As of this date, the Department of Justice has not ruled upon the preclearance request. Respondents have opposed preclearance of the 5-3-1 plan.

REASONS WHY THE PETITION SHOULD BE DENIED

I. THE OPINION OF THE COURT OF APPEALS IS A WELL CONSIDERED AND RESPONSIBLE APPLICATION OF SETTLED LAW, AND IT SHOULD NOT BE REVIEWED ON *CERTIORARI*.

Review by *Writ of Certiorari* in the Supreme Court of the United States is not a matter of right. Rule 17 of the Rules for the Supreme Court sets out the criteria to be used in determining whether review by the Supreme Court is necessary or proper in a given case. The decision below does not involve an area of unsettled law and did not depart from established precedent. This case does not merit further review.

A. THE FINDINGS OF FACT MADE BY THE DISTRICT COURT RECEIVED THE CONCURRENCE OF THE COURT OF APPEALS

The facts in this case were proven in a hotly contested trial, and the factual findings of the District Court were upheld by the Court of Appeals. *Campos v. City of Baytown*, 840 F. 2d 1240, 1250 (5th Cir. 1988); Pet. App. at

15e. Petitioners in part III of their Petition for Writ of Certiorari, pages 16 - 18, express their dissatisfaction with the trial court's findings of fact regarding a certain black precinct. The appellate court fully considered their dissatisfaction and ruled that the trial court's findings of fact were correct. *Campos v. City of Baytown*, 840 F. 2d at 1247 - 1248, Pet. App. at 9e - 12e. In accord with this Court's policy, it should not undertake to review concurrent findings of fact by two courts below. *Graver Mfg. Co. v. Linde Co.*, 336 U. S. 271, 275 69 S. Ct. 535, 93 L. Ed. 672 (1949).

B. THERE IS NO CONFLICT BETWEEN COURTS OF APPEAL TO BE SETTLED BY THIS COURT.

Petitioners have attempted to manufacture a conflict between the Eleventh and Fifth Circuits to support their application for certiorari, *Petition for A Writ of Certiorari* at p. 13, first, by misstating the standard to be used in an analysis of polarized voting, and second, by suggesting that the Fifth Circuit has failed to follow the correct standard.

Thornburg v. Gingles, 478 U. S. 30, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (1986), set the standards of proof necessary for a plaintiff to establish a claim under Section 2 of the Voting Rights Act of 1965, 42 U. S. C. 1973. The test, *Thornburg*, at 2766-2767, is tripartite:

1. The minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single member district; and

2. The minority group must be able to show that it is politically cohesive; and

3. The minority group must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it - in the absence of special circumstances, such as the minority candidate running unopposed, – usually to defeat the minority's preferred candidate.

The second and third parts, cohesion and majority bloc voting, are usually proven by statistical evidence of racially polarized voting. *Thornburg*, 106 S. Ct. at 2768-2769. "Racial bloc" or "racially polarized" voting means that there is "a consistent relationship between the race of the voter and the way in which the voter votes." *Thornburg*, 106 S. Ct. at 2768, n. 21.

Petitioners have suggested that in evaluating whether polarized voting exists in Baytown, one must look at all elections, even those in which there is no minority candidate. The trial court, with the approval of the Fifth Circuit, looked at those elections in which there was a viable minority candidate. Petitioners base their view upon a supposed standard set by this Court in *Thornburg v. Gingles*, 106 S. Ct. at 2776 that "it is the status of the candidate as the chosen representative of a particular racial group, not the race of the candidate, that is important." Not only does this position claim only a plurality of this Court [Justice White specifically disavowed it, and four other justices agreed with him. *Thornburg v. Gingles*, 106 S. Ct. at 2783-2784 (White, J. concurring) and 106 S. Ct. at 2793 (O'Connor, J., concurring in the judgment)], but it does not state the correct standard for determining which elections are to be studied.

What is clear from a close reading of *Thornburg v. Gingles*, is that the focus is upon those races in which the minority group sponsored a candidate:

> The number of elections that must be studied in order to determine whether voting is polarized will vary according to pertinent circumstances. One important circumstance is the number of elections in which the minority group has sponsored candidates.
>
> –*Thornburg*, at 2770, n. 25.

This focus has been recognized by *both* the Fifth and the Eleventh Circuits. *Carrollton Branch of NAACP v. Stallings*, 829 F. 2d 1547, 1557 (11th Cir. 1987): "under Section 2, it is the status of the candidate as the chosen representative of a particular racial group, not the race of the candidate that is important." *Campos v. City of Baytown*, 840 F. 2d 1240, 1245 (5th Cir. 1988), Pet. App. at 7e: "The district court was warranted in its focus on those races that had a minority member as a candidate. *Citizens for a Better Gretna v. City of Gretna, La.*, 834 F. 2d 496, 503 (5th Cir. 1987): *Gingles* is properly interpreted to hold that the race of the candidate is in general of less significance than the race of the voter - but only within the context of an election that offers voters the choice of supporting a viable minority candidate."

The court below was correctly convinced that it was those elections in which a minority candidate ran that there was a "sponsored minority candidate." "There was no evidence that any Anglo-Anglo race for Baytown City Council offered the voters the choice of a 'viable minority candidate.' Indeed, the evidence showed, as the district court found, that minority voter turnout increased dramatically when there was a candidate who was a member

of the minority group." *Campos v. City of Baytown*, 840 F. 2d 1240, 1245 (5th Cir. 1988), Pet. App. at 7e - 8e.

Thus, there is no conflict between the Fifth and Eleventh Circuits regarding which races are to be analyzed for the purposes of establishing polarized voting, and those decisions are in accord with this Court's decision in *Thornburg v. Gingles*.

II. BOTH COURTS BELOW FOLLOWED THE REASONING OF *THORNBURG V. GINGLES* REGARDING A COALITION OF MINORITIES

Petitioners have argued that both courts below were incorrect in combining blacks and Hispanics to meet the test of this court to determine a Voting Rights Act violation as stated in *Thornburg v. Gingles*, 478 U.S. 30, 106 S. Ct. 2752, 92 L.Ed.2d 25 (1986).

A. HISPANICS ALONE PROVED A VOTE DILUTION CLAIM

In this case, Hispanics alone met the legal requirements set out in *Thornburg v. Gingles*, 478 U.S. 30, 106 S. Ct. 2752, 92 L.Ed.2d 25 (1986). In its findings of fact, the District Court found that Hispanics met the threshold *Gingles* elements of compactness, cohesiveness and white bloc voting. In comparing Hispanic and white voting for Hispanic candidates, the court noted a high degree of racially polarized voting. *Campos v. City of Baytown*, No. H-85-1021, Slip Op. pp. 4 through 8, Pet. App. 3a - 5a. Proof of racially polarized voting meets the cohesiveness and white voting bloc requirements. Additionally, the trial court's reference to Plaintiffs' Exhibits 5 - 7 indicates that it is possible to draw 50%+ Hispanic districts.

Campos, ibid. Slip Op. at 10, Pet. App. 8a. Such proof meets the geographic compactness test. None of these facts were overturned by the appellate court as being clearly erroneous.

Petitioners assert that combining minority groups, blacks and Hispanics, is not permitted to prove a vote dilution claim. Even if, *arguendo*, their assertion were correct, in this case, Hispanics alone proved such a claim. Therefore, in this case, the issue of combining minorities is moot.

B. COMBINING BLACKS AND HISPANICS IN PROVING A VOTE DILUTION CLAIM IS CONSISTENT WITH THE PURPOSE OF SEC. 2 OF THE VOTING RIGHTS ACT AND *THORNBURG V. GINGLES*.

The Court of Appeals was correct in holding that a combination of blacks and Hispanics is permissable because, as it noted, "Section 1973(a) protects the right to vote of racial and language minorities." *Campos v. City of Baytown*, 840 F.2d. 1240, 1244 (5th Cir., 1988), Pet. App. at 5e. Section 2 of the Voting Rights Act as amended provides that a violation of subsection (a) is established if based on "the totality of the circumstances" plaintiffs show that the political processes leading to nomination or election in the State or political subdivision are "not equally open to participation" by members of the protected minority group. 42 U.S.C. 1973(a)(b).

In its findings of fact, the District Court found that in Baytown, Texas, the combination of blacks and Hispanics met the three-part test established in *Thornburg v. Gingles*. In addition, it found that plaintiffs satisfied the *Zimmer*

factors specified in *Thornburg v. Gingles* and in the legislative history to the Voting Rights Act. *Campos v. City of Baytown, supra,* Slip. Op. p. 19, Pet. App. 14a-15a. *Thornburg v. Gingles,* 106 S.Ct. at 2758-2759; See *Zimmer v. McKeithen,* 485 F.2d 1297 (5th Cir. 1973) (en banc), aff'd sub nom. *East Carroll Parish School Board v. Marshall,* 424 U. S. 636, 96 S. Ct. 1083, 47 L. Ed. 2d 296 (1976) (per curíam). An analysis of these factors reveals that blacks and Hispanics in the instant case did not have an equal opportunity to participate in the political processes and to elect candidates of their choice.

For example, the District Court found the existence of racially polarized voting in Baytown through the use of regression analysis. *Campos v. City of Baytown, supra,* Slip Op. at 4-8, Pet. App. 3a - 6a. The District Court also found that minority group members in Baytown, both blacks and Hispanics, bore the effects of past discrimination in education, income, poverty, occupational status and unemployment. *Campos, supra,* Slip Op. at 9-10, Pet. App. 7a. In addition, the District Court found that plaintiffs met another *Zimmer* factor by showing that no minority had been elected since Baytown's incorporation in 1947. *Campos, supra,* Slip. Op. at p. 2, Pet. App. 2a.

All of these factors considered in light of the *Thornburg v. Gingles* three-part test, which plaintiffs met here, established that both blacks and Hispanics have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

The Fifth Circuit clearly recognized that whether blacks and Hispanics may be combined for purposes of a

vote dilution claim is a fact based question dependent upon the particular circumstances of the jurisdiction in question.

> The key is the minority group as a whole. Of course, if one part of the group cannot be expected to vote with the other part, the combination is not cohesive. . . .But if the statistical evidence is that blacks and Hispanics together vote for the same candidate, then cohesion is shown.
>
> –*Campos*, at 1245.

In a similar case, this Court concluded that both blacks and Hispanics "had less opportunity than did other residents in the district to participate in the political processes and to elect legislators of their choice." *White v. Regester*, 412 U.S. 755, 766-769, 93 S. Ct. 2332, 37 L.Ed.2d 314 (1973).

C. THE LEGISLATIVE HISTORY OF THE VOTING RIGHTS ACT ALLOWS THE COMBINING OF BLACKS AND HISPANICS IN A VOTE DILUTION CLAIM.

In enacting the new Section 2 of the Voting Rights Act, Congress adopted the legal standards incorporated in the Supreme Court's decisions in *White v. Regester*, 412 U. S. 755 (1973). See S. Rep. No. 97-417, 97th Cong., 2d Sess. 19-24, 27-30 (1982), reprinted in 1982 U. S. Code Cong. and Ad. News 177, 196-201, 204-08. As stated earlier, *White* itself involved claims by black voters in Dallas County, Texas, and Mexican-American voters in Bexar County, Texas, that their voting strength was unlawfully diluted by at-large voting, in county-wide elections. Based on similar evidence as in Baytown, this court found that the voting strength of both groups was

impermissibly diluted by at-large voting. Both groups suffered an extensive past history of discrimination that affected their right to vote, severe under-representation caused by at-large voting, depressed socio-economic conditions, and other characteristics showing that at-large elections denied them an equal opportunity to elect representatives of their choice (412 U.S. at 765-70).

Further, in the remedy stage of *White*, the three-judge District Court adopted combined "minority districts." A district in San Antonio was 41.2% Black and 36.5% Mexican American. *Graves v. Barnes*, 343 F. Supp. 704 (W.D. Tex. 1971); Aff'd in relevant part sub.nom. *White v. Regester*, 412 U.S. 755 (1973).

Since the inception of the Voting Rights Act, this Court has consistently interpreted the Act in a manner which affords it "the broadest possible scope" in combatting racial discrimination. *Allen v. State Board of Elections*, 393 U.S. 544, 565, 89 S. Ct. 817, 831, 22 L. Ed. 2d 1 (1969). The Petitioners in this case seek to restrict the interpretation of the Act contrary to Congressional intent.

CONCLUSION

For these reasons, the petition for *writ of certiorari* should be DENIED.

Respectfully submitted as of November 29, 1988.

WILLIAM L. GARRETT
(Counsel of Record)
GARRETT, THOMPSON & CHANG
8300 Douglas, Suite 800
Dallas, TX 75225
(214) 369-1952

ROLANDO L. RIOS
Southwest Voter Registration
Education Project
201 N. St. Mary's, Suite 521
San Antonio, TX 78205
(512) 222-2102

Attorneys for Respondents
Tony Campos, et al.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 87-2359

TONY CAMPOS, ET AL.,

Plaintiffs-Appellees
Cross-Appellants,

versus

CITY OF BAYTOWN, TEXAS, ET AL.,

Defendants-Appellants
Cross-Appellees.

Appeal from the United States District Court
for the Southern District of Texas

(Filed July 25, 1988)

O R D E R :

[X] The motion of appellants for [x] stay [ ] recall and stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

[ ] The motion of appellants for [x] stay [ ] recall and stay of the issuance of the mandate pending petition for writ of certiorari is GRANTED to and including ____, the stay to continue in force until the final disposition of the case by the Supreme Court, provided that within the

period above mentioned there shall be filed with the Clerk of this Court the certificate of the Clerk of the Supreme Court that the certiorari petition has been filed. The Clerk shall issue the mandate upon the filing of a copy of an order of the Supreme Court denying the writ, or upon the expiration of the stay granted herein, unless the above mentioned certificate shall be filed with the Clerk of this Court within that time.

[ ] The motion of _____ for a futher stay of the issuance of the mandate is GRANTED to and including _____, under the same conditions as set forth in the preceding paragraph.

[ ] The motion of _____ for a further stay of the issuance of the mandate is DENIED.

/s/ Thomas M. Reavley
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

(Filed September 1, 1988)

CASE NO. H85-1021
STYLE: Tony Campos, et al VS City of Baytown, et al

APPEARANCE FOR PLAINTIFF(S):	APPEARANCE FOR DEFENDANT(S):
Rolando Rios	Randy Strong
Bill Garrett	Val Perkins
	Steve Oaks

DOCKET ENTRY:

September 1, 1988: **(JVS) Minutes of** Status **Conference, filed.**

Plaintiff's Motion for Interim Election is DEFERRED. By October 1, 1988, the City is to file its plan for preclearance by the Justice Department. If preclearance is denied, this Court will immediately hear the plaintiff's motion and order expedited elections.

THE CLERK SHALL FILE THIS ENTRY AND MAIL COPIES TO COUNSEL.

DATE September 1, 1988 /s/ John V. Singleton
UNITED STATES DISTRICT JUDGE

(LOGO)

LEGAL DEPARTMENT
P.O. BOX 424
BAYTOWN, TEXAS 77522
713 422-8281 EXT. 229

September 20, 1988

RANDALL B. STRONG
CITY ATTORNEY

RON MC LEMORE
ASSISTANT CITY
ATTORNEY

IGNACIO RAMIREZ
ASSISTANT CITY
ATTORNEY

Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Re: Submission under Section 5, Voting Rights Act, City of Baytown, Harris County, Texas, Proposed Municipal Election on May 6, 1989

Dear Sir:

Enclosed please find the City of Baytown's submission for preclearance under Section 5 of the Voting Rights Act.

The City of Baytown has a population of 56,923 according to the 1980 Federal Census (U.S. Bureau of Census, CENSUS OF POPULATION: 1980-Final Population and Housing Unit Counts, Advance Report PHC 80-V-45, Texas, Table 2). The number of individuals of Spanish origin in 1980 was 9,348 or 16.42% of the total population. The number of Black individuals in 1980 was 5,096 representing 8.95% of the total population.

The City of Baytown is located in Harris and Chambers Counties. Those portions of the City located within Chambers County have no residents as they are part of an industrial district wholly owned by United States Steel

Corporation, Mobay Chemical Corporation, Houston Lighting and Power, and Hoesch Tubular Products. All residents of the City of Baytown live in Harris County, Texas. The county seat of Harris County is Houston. All registration for voting is conducted by the county by state law. The City does not have the authority to conduct voter registration.

The City of Baytown is a Home Rule City as that term is defined by the Constitution and the laws of the State of Texas. The form of government is a "council-manager government," as established by the Charter of the City. Prior to this preclearance, the city council was composed of a mayor and six councilmen. The mayor was elected from the City at large for a term of two years. The City was divided into six council districts according to population, with each councilman, a bona fide resident of the district, being elected from such district by a majority vote of the City at large. One-half of the council was elected each year and each member served a term of two (2) years.

This request for preclearance includes a proposed redistricting plan which would result in the City being divided into five districts, each of which would elect a councilman from that district for a two-year term by a majority vote of the residents of that district. Three additional councilmen and the mayor would be elected at-large by a majority vote of all the residents of the City. The resulting council would consist of eight councilmen plus the mayor.

The City of Baytown will not be using the voting precincts established by Harris County as it has its past

elections. The City will establish one polling place in each council district. The voter registration lists provided by Harris County will be marked by the City to indicate the proper council district in which citizens should vote.

The City has made one (1) annexation since its last submission for preclearance. This area has been assigned to a council voting district. The area is uninhabited.

The City has made several prior submissions for preclearance under Section 5. The City's last request for preclearance was initiated January 29, 1986. See Justice Department File No. CO883. Since the January 29, 1986, submission, the City has made additional changes affecting voting. The exhibits and explanations relative to the changes affecting voting since January 29, 1986, have been indicated above and are more fully described as follows:

Exhibit I - Annexation
Exhibit II - Redistricting
Exhibit III - Voting Precincts

Pursuant to Section 41.001 of the Texas Election Code, the City will hold its municipal election the first Saturday in May. Clearance is requested as soon as possible so that the City may conduct its municipal election.

The City of Baytown requests an opportunity to appear before the Justice Department Official reviewing this submission, in order that the City might better present this submission, and to address any concerns or questions you may have about this submission. Please contact the undersigned if additional information is needed.

Sincerely yours,
/s/ Randell B. Strong
RANDALL B. STRONG
City Attorney